

	No. of Re- spondents	Responses/ respondent	Hours/re- sponse	Total burden (hours)
Survey of Girls Ages 9–14 .....	900	1	.25	225
Survey of Mothers/Caregivers .....	500	1	.25	125
In-Depth Interviews—Youth Leaders/Mentors .....	5	1	4.0	20
In-depth Interviews—Girls .....	20	1	.75	15
Total .....	1,425	.....	.....	385

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 15, 2002.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 02–12775 Filed 5–21–02; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4732–N–04]

### Statutory and Regulatory Waivers Granted to New York State for Recovery from the September 11, 2001 Terrorist Attacks

**AGENCY:** Office of Community Planning and Development, HUD.

**ACTION:** Notice of waivers granted.

**SUMMARY:** This notice advises the public of waivers of regulations and statutory provisions granted to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City. As described in the **SUPPLEMENTARY INFORMATION** section of this notice, HUD is authorized by statute to waive statutory and regulatory requirements and specify alternative requirements for this purpose. This notice lists the provisions being waived and alternative requirements specified.

**DATES:** Effective Date: May 28, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jan C. Oppen, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Oppen at (202) 401–2044. (Except for the “800” number, these telephone numbers are not toll-free.)

#### **SUPPLEMENTARY INFORMATION:**

#### **Authority to Grant Waivers**

Chapter 13 of division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Publ. L. 107–117, approved January 10, 2002) appropriates \$2.0 billion in Community Development Block Grant funds and makes applicable the first six provisos of section 434 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Publ. L. 107–73, approved November 26, 2001). Section 434 provides for the use of CDBG funds made available from the Emergency Response Fund by the fifth proviso under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Publ. L. 107–38, approved September 18, 2001) to New York State for properties and businesses damaged by, and economic revitalization related to, the September 11, 2001 terrorist attacks on New York City. Prior to the \$2.0 billion appropriation, \$700 million was made available from the Emergency Response Fund. The third proviso of section 434 authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or use by the recipient of these funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment.

The Department finds that the following waivers and alternative requirements are necessary to facilitate the use of both the \$700 million awarded to New York State’s Empire State Development Corporation and the \$2.0 billion awarded to New York State’s Lower Manhattan Development Corporation. This notice of waivers granted and alternative requirements supersedes those published on January 28, 2002, at 67 FR 4164, and the correction published on February 7, 2002, at 67 FR 5845. (This notice does not supersede waivers and alternative requirements published on March 18,

2002, at 67 FR 12042, with respect to payment of compensation for economic loss.) The Department also finds that such uses of funds, as described below, are not inconsistent with the overall purpose of the Housing and Community Development Act of 1974, as amended, or the Cranston-Gonzalez National Affordable Housing Act, as amended.

Except as noted by published waivers and alternative requirements, statutory and regulatory provisions governing the Community Development Block Grant program for states, including those at 24 CFR subpart I, shall apply to the use of these funds.

#### **Description and Justification of Requirements Waived or Alternative Requirements Specified and Note of Applicability**

1. *Waive the requirement that 70% of the CDBG funds received by the state over a one-to-three year period be for activities that benefit persons of low and moderate income.* 42 U.S.C. 5301(c) and 5304(b)(3), and 24 CFR 570.484 and 24 CFR 91.325(b)(4)(ii) with respect to the 70% overall benefit requirement are waived with respect to CDBG funds appropriated under the Emergency Response Fund. HUD expects the grantee will make a good faith effort to maximize benefit to low- and moderate-income persons, and maintain documentation of such efforts.

2. *Streamline citizen participation requirements.* Provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 540.486, and 24 CFR 91.115(b) with respect to citizen participation requirements are waived and replaced by the requirements below. The streamlined requirements do not mandate public hearings, but do provide for a reasonable opportunity for citizen comment and for ongoing citizen access to information about the use of grant funds. The streamlined requirements for this grant are:

a. Before the State adopts the action plan (or a part of an action plan) for this grant or any substantial amendment to this grant, the State will publish the proposed plan or amendment (including the information required in waiver eight (8)). Publication will be carried out in a manner that affords citizens, New York

City and other interested parties a reasonable opportunity to examine the plan or amendment's contents and to submit comments. The State's plans to minimize displacement of persons or entities and to assist any persons or entities displaced must be published with the action plan. Subsequent to publication, the State must provide a reasonable period to receive comments on the plan or substantial amendment.

b. In the action plan, the State will specify the criteria for determining what changes in the State's activities constitute a substantial amendment to the plan. At a minimum, adding or deleting an activity or changing the planned beneficiaries of an activity will constitute a substantial change.

c. The State must consider all comments received on the action plan or any substantial amendment and submit to HUD a summary of these comments and the State's response with the action plan or substantial amendment.

d. The State must make the action plan, any substantial amendments, and all performance reports available to the public, on request. Also on request, the State must make these documents available in a form accessible to persons with disabilities. During the term of this grant, the State will provide citizens, New York City, and other interested parties reasonable and timely access to information and records relating to the action plan and the State's use of this grant.

e. The State will provide a timely written response to every citizen complaint. Such response will be provided within 15 working days of the complaint, if practicable.

3. *Modify requirement for consultation with local governments.* Currently, the statute and regulations require consultation with affected units of local government in the non-entitlement area of the State regarding the State's proposed method of distribution. HUD is waiving 42 U.S.C. 5306(d)(2)(C)(iv), 24 CFR 91.325(b), and 24 CFR 91.110, with the alternative requirement that the State consult with New York City in determining the use of funds.

4. *Remove requirements for consistency with the consolidated plan.* Requirements at 42 U.S.C. 12706 and 24 CFR 91.325(a)(6), that require that housing activities undertaken with CDBG, HOME, ESG, and HOPWA funds be consistent with the strategic plan, are waived. Also, 24 CFR 570.903, which requires HUD to annually review grantee performance under the consistency criteria, is also waived.

5. *Clarifying note on the process for environmental release of funds when a State carries out activities directly.*

Usually, a State distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. For this grant, waiver seven (7) below allows New York State to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a State carries out activities directly, the State must submit the certification and request for request of funds to HUD for approval.

6. *Allow reimbursement for pre-agreement costs.* The provisions of 24 CFR 570.489(b) are applied to permit New York State or New York City to reimburse itself for otherwise allowable costs incurred on or after September 11, 2001.

7. *Distribution and use of funds to and in a metropolitan city.* Provisions of 42 U.S.C. 5306 currently require a State to distribute CDBG funds to units of general local government in nonmetropolitan areas for use in nonmetropolitan areas rather than carrying activities out directly. These provisions are waived with alternative requirements with respect to CDBG funds appropriated under the Emergency Response Fund to permit the State of New York to carry out activities directly in New York City and to permit the State to distribute these funds to New York City. Additionally, because New York State may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining the State has failed to carry out its certifications so that such basis shall be that the State has failed to carry out its certifications in compliance with applicable program requirements. Also, 24 CFR 570.494 regarding timely distribution of funds is waived. However, HUD expects New York State to expeditiously obligate and expend all funds, including any recaptured funds or program income, in carrying out activities in a timely manner.

8. *Action Plan for Disaster Recovery.* Current State CDBG requirements for an action plan envision a State using a method for distributing substantially all CDBG funds received to other governments and not carrying out activities directly. This waiver allows the State to submit an action plan that may include activities directly undertaken by the State. With respect to CDBG funds appropriated under the Emergency Response Fund, the last

sentence of 42 U.S.C. 5304 (a)(1), and provisions of 42 U.S.C. 12705, 24 CFR 570.485, 24 CFR 91.320 and 91.325(a)(5) are waived with alternative requirements that the State submit an action plan for disaster recovery that includes the following:

a. Information specified at 24 CFR 91.220(a), (b), (d) and (g).

b. A description of the activities the state will assist with grant funds. This description of activities shall estimate the number and type of beneficiaries of the proposed activities, proposed accomplishments, and a target date for completion of each activity. This information must be submitted in a form prescribed by HUD.

9. *Change the limitations on administrative and planning expenses.* The current law and regulations require that 50 percent of any administrative expenses, in excess of \$100,000, that do not exceed 2 percent of the grant be paid from the grant. Provisions at 42 U.S.C. 5306(d)(3)(A), 24 CFR 570.489(a)(1)(i) and 24 CFR 570.489(a)(3) are waived to allow use of CDBG disaster grant funds for planning and administrative expenses that do not exceed 10 percent of the grant amount plus program income with respect to the \$700 million grant and 5 percent of the grant amount plus program income with respect to the \$2.0 billion grant.

10. *Administrative costs and reimbursement.* To facilitate the use of funds for administrative costs of the Lower Manhattan Development Corporation incurred in relation to revitalization and redevelopment of lower Manhattan in New York City, New York in response to the September 11, 2001 terrorist attacks on New York City including such costs not directly related to this CDBG disaster assistance but related to revitalization of lower Manhattan, section 105(a)(13) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5305(a)(13) is modified solely to the extent necessary for this use of administrative costs. Temporary use of funds under HUD grant number B-01-DW-36-0001 for payment of administrative costs incurred prior to award of HUD grant number B-02-DW-36-0001, and reimbursement of such costs paid from HUD grant number B-01-DW-36-0001 with funds awarded under HUD grant number B-02-DW-36-0001 is authorized.

11. *Permitting a further range of eligible economic revitalization activities.* The limitation at 42 U.S.C. 5305(a) on eligible activities in the CDBG program to the list of activities in section 105(a) is waived, in recognition of the requirements of section 434 of

Public Law 107-73 that funds be used, in part, for economic revitalization related to the September 11, 2001 terrorist attacks on New York City for the affected area. This change also establishes an alternative requirement by adding the following to the list of eligible activities:

a. Provision of assistance directly to individuals and entities for purposes of economic revitalization of lower Manhattan by retaining and attracting residents.

b. Provision of assistance to nonprofit organizations for purposes of economic revitalization of lower Manhattan by creating and retaining jobs.

12. *Public benefit standards for economic development activities.* Currently, grantees are limited in the amount of CDBG assistance per job retained or created, or amount of CDBG assistance per low- and moderate-income person to which goods or services are provided by the activity, that will be considered to meet public benefit standards. Public benefit standards at 42 U.S.C. 5305(e)(3) and 24 CFR 570.482(f)(1), (2), (3), (4)(i), (5), and (6) are waived, except that the grantee shall report and maintain documentation on the creation and retention of (a) total jobs, (b) number of jobs within certain salary ranges, and (c) types of jobs. Paragraph (g) of 24 CFR 570.482 is also waived to the extent its provisions are related to public benefit.

13. *Underwriting Requirements for Certain Economic Development Activities.* To facilitate the use of funds for economic development activities identified in an action plan submitted by the Empire State Development Corporation or the Lower Manhattan Development Corporation as the "WTC Job Creation and Retention Program," "Small Firm Attraction and Retention Grants," and the "WTC Business Recovery Loan Fund" the project cost and financial requirements at section 105(e)(2) of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5305(e)(2)) for eligible activities under section 105(a)(14), (15), and (17) in the CDBG program are waived, and the following alternative requirements are established:

#### **WTC Job Creation and Retention Program**

For the WTC Job Creation and Retention Program (JCPR), in determining the amount of assistance, Empire State Development Corporation must consider:

a. Other existing incentive transactions and offers received by the business;

b. Alternative locations the business may be considering;

c. Analysis of the risk that:

- The business if located South of Canal Street at the time of the disaster will not remain within lower Manhattan;
  - The business if located South of Canal Street at the time of the disaster and that has temporarily relocated elsewhere because of the disaster would not return;
  - The New York City business that suffered significant economic dislocation because substantial numbers of its major customers were businesses south of Canal Street would not remain in New York City; or
  - The business seeking to locate new operations and create new jobs in lower Manhattan would not otherwise locate there;
- d. Employment and economic benefit/cost analysis; and
- e. The fiscal impact on State and city revenues.

#### **Small Firm Attraction and Retention Grants**

For the Small Firm Attraction and Retention Grants (SFARG), in determining eligibility and funding level of firms, Empire State Development Corporation's decision shall be based on the location, minimum lease terms, and assistance per full-time equivalent employee, as stated in the action plan for the use of funds under the SFARG program. (A description is available on the web at [www.nylovesbiz.com/wtc/sfarg-program.htm](http://www.nylovesbiz.com/wtc/sfarg-program.htm))

#### **WTC Business Recovery Loan Fund**

For the WTC Business Recovery Loan Fund (BRLF), in which financing will be provided by experienced institutional, quasi-public, and nonprofit lenders, the amount, terms, and conditions for CDBG and CDBG-backed loans shall be established through standard, generally accepted underwriting analyses. Such underwriting analysis shall, among other factors, include reasonableness of project costs, and project financial feasibility with recognition of the potential for enhanced levels of risk.

13. *Duplication of benefits.* The CDBG funds appropriated under the Emergency Response Fund may not be used to provide funds for the same specific uses as disaster loans made available by the Small Business Administration (SBA), in compliance with 15 U.S.C. 636(b)(1)(A). If the needs for assistance are more than the SBA disaster loan amount, CDBG disaster assistance may be used to fund such additional need. New York State should

encourage the use of SBA physical damage and economic injury disaster loans; they offer low interest rates and favorable terms. Additionally, CDBG disaster assistance may not be used for the same specific uses as disaster assistance made available by the Federal Emergency Management Agency, e.g., for public works and facilities, in compliance with duplication of benefits prohibitions of 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended).

14. *Use of subrecipients.* The State CDBG program rule does not make specific provision for the treatment of subrecipients. CDBG entitlement communities frequently use subrecipients and the rule for that program specifically describes the requirements for subrecipient agreements and financial requirements. The waiver allowing the state to carry out activities directly creates a situation in which the state is more likely to use Subrecipients to carry out activities in a manner similar to entitlement communities. Therefore the following alternative requirement applies:

a. 24 CFR 570.503, except that specific references to 24 CFR 85 need not be included in subrecipient agreements.

b. 570.502(b).

15. *Recordkeeping.* Recognizing that the State will carry out activities directly, 24 CFR 570.490(b) is waived and this provision shall apply:

State records. The State shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG funds under § 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the State shall be sufficient to: enable HUD to make the applicable determinations described at § 570.493; make compliance determinations for activities carried out directly by the state; and show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program."

24 CFR 570.490(c) and (d) shall also apply.

16. *Performance reports.* Generally, grantees submit an annual performance report ninety days after the jurisdiction's program year. The conferees for Public Law 107-73 requested that HUD submit reports to the Committees on Appropriations

quarterly on the obligation and expenditure of the CDBG funds appropriated under the Emergency Response Fund. Therefore, 42 U.S.C. 12708(a)(1) and 24 CFR 91.520 are waived with respect to these funds, and HUD is establishing an alternative requirement that the State must submit a quarterly report, as HUD prescribes, no later than 30 days following each calendar quarter, beginning after the first full calendar quarter after grant award and continuing until all funds have been expended and that expenditure reported. Each quarterly report will include information on the project name, activity, location, national objective, funds budgeted and expended, Federal source and funds (other than CDBG disaster funds), numbers and North American Industry Classification System (NAICS) codes of businesses assisted by activity, total number of jobs created and retained by activity, numbers of such jobs by salary ranges (to be defined by HUD), numbers of properties and housing units assisted; for activities benefiting low- and moderate-income persons, the number of jobs taken by persons of low- and moderate-income, and numbers of low- and moderate-income households benefiting. Quarterly reports must be submitted using HUD's web-based Disaster Recovery Grant Reporting system. Annually (*i.e.*, with every fourth submission), the report shall include a financial reconciliation of funds budgeted and expended, and calculation of the status of administrative costs.

17. *Allow flexibility in use of program income during grant and provide for disposition at grant closeout.* A combination of CDBG provisions limits the flexibility available to the State and city for the use of program income. Generally, program income earned on disaster grants has been program income to the regular CDBG program of the applicable entitlement or State and has lost its disaster grant identity, thus losing use of the waivers and streamlined alternative requirements. Also, the State CDBG program rule and law are designed for a program in which the State distributes all funds rather than carrying out activities directly and the law specifically provides for local governments receiving grants to retain program income if they use it for additional eligible activities under the regular CDBG program. This waiver and the alternate requirements allow program income to the disaster grant to be governed by the original grant's requirements and waivers and to remain the State's until grant closeout, at which point any program income on hand or

received subsequently will become program income to New York City's regular entitlement CDBG program. Therefore, 42 U.S.C. 5304(j), 24 CFR 570.481(a) to the extent it relates to defining program income, and 24 CFR 570.489(e) are waived and the following alternative requirements apply:

a. Program income is defined at 24 CFR 570.500(a);

b. 24 CFR 570.504(a) and (c);

c. Program income received before grant closeout may be retained by the recipient if the income is treated as additional funds under this grant subject to all of this grant's applicable requirements;

d. Substantially all program income other than any held in revolving funds shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury. Program income in the form of repayments to, or interest earned on, a revolving fund as defined in 24 CFR 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity; and

e. Program income on hand at the time of grant closeout and program income received after grant closeout shall be program income to the ongoing CDBG entitlement program of New York City.

18. *Modification of the anti-pirating clause to permit assistance to help a business return.* 42 U.S.C. 5305(h) is hereby waived only to allow the State to provide assistance under this grant to any business that was operating in the covered disaster area before September 11, 2001, and has since moved in whole or in part from the affected area to continue business.

19. *Change of use of real property.* This section is written in the context of the regular State CDBG program in which the State distributes funds to units of general local governments and does not carry out activities directly. This change grants a waiver allowing the State to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), "unit of general local government" shall be read as "unit of general local government or State."

20. *Responsibility for State review and handling of noncompliance.* This change conforms the rule with the waiver allowing the State to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies:

The State shall make reviews and audits including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may

be necessary or appropriate to meet the requirements of section 104(e)(2) of the Act.

In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences and prevent a recurrence. The State shall establish remedies for noncompliance by any designated public agencies or units of general local governments and for its subrecipients.

Section 434 of Public Law 107-73 requires HUD to publish these waivers in the **Federal Register** no later than five days before their effective date. The effective date of these waivers is May 28, 2002.

Dated: May 14, 2002.

**Roy A. Bernardi,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 02-12715 Filed 5-21-02; 8:45 am]

BILLING CODE 4210-29-P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### Outer Continental Shelf (OCS), Alaska OCS Region

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of availability of the final environmental impact statement (EIS) for the proposed Liberty Development and Production Project in Beaufort Sea, Alaska.

**SUMMARY:** MMS announces the availability of the final EIS prepared by MMS for the Liberty Project in Foggy Island Bay offshore Beaufort Sea, Alaska.

#### FOR FURTHER INFORMATION CONTACT:

Persons interested in reviewing the final EIS "OCS EIS/EA, MMS 2002-19" (Volumes I-IV) can contact the MMS Alaska OCS Region. The documents are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Resource Center, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508-4363, telephone: (907) 271-6070, or (907) 271-6621, or toll free at 1-800-764-2627. Requests may also be sent to MMS at [akwebmaster@mms.gov](mailto:akwebmaster@mms.gov). You may obtain single copies of the final EIS, or a CD-ROM version, or the Executive Summary from the same address.

You may look at copies of the final EIS in the following libraries: